

**PRACTICES AND PROCEDURES OF  
JUDGE CATHY BISSOON**

**I. GENERAL MATTERS**

**A. Communications with the Court:**

Counsel are not to send correspondence to Judge Bissoon, unless she specifically requests or approves the same. Requests for the rescheduling of conferences may be made by telephone to the Court's Deputy Clerk but only if counsel for all parties are on the line. Otherwise, such requests are to be made by motion.

**B. Communications with Law Clerks:**

Counsel are not to contact Judge Bissoon's law clerks. If they wish to consult on the status of a matter or an appropriate procedure, counsel are to call her Deputy Clerk.

**C. Telephone Conferences:**

Requests for counsel or parties to participate by phone will be considered on a case by case basis. When a telephone conference by counsel is permitted by the Court, counsel must initiate the call and contact the Court once all parties are on line.

**D. Pro Hac Vice Admissions:**

Judge Bissoon routinely grants motion for pro hac vice admissions that comply with all applicable rules, including this Court's local rules.

**E. Comments to the Media:**

Attorneys are expected to adhere to the Rules of Professional Conduct in all dealings, including those with the media.

## **II. MOTIONS PRACTICE**

### **A. Oral Argument:**

Oral argument is only granted on selected, factually or legally complex matters. If the Court deems oral argument to be appropriate, an order will issue. Judge Bissoon does not set aside a specific day or time for argument of motions.

### **B. Briefs:**

Any motion seeking substantive legal ruling(s) -- whether dispositive or non-dispositive -- should be accompanied by a supporting brief. The supporting brief must be filed contemporaneously with the motion. A brief may be omitted only if: (i) the motion is nondispositive, and (ii) the motion itself contains sufficient arguments and/or legal citation to permit meaningful judicial review.

Supporting and responsive briefs are limited to twenty-five (25) pages in length, excluding exhibits and fact statements. Reply briefs on dispositive motions only are permitted without leave of Court, but shall be no more than five (5) pages in length and should be narrowly tailored to address only those matters newly raised in the response brief. Requests for surreply briefs are strongly discouraged.

Except as otherwise provided herein, counsel must follow Local Rule 56 when filing and responding to summary judgment motions.

### **C. Courtesy Copies:**

Generally, the Court does not require courtesy copies of motions, briefs or exhibits and these should not be forwarded to chambers, as they are available to the Court through ECF. Where the exhibits are in excess of 150 pages, however, Judge Bissoon requires that counsel deliver to chambers a hard copy of the appendix/exhibits.

**D. Scheduling:**

Unless otherwise ordered, responses to all non-dispositive motions shall be filed within eleven (11) days of service. Responses to motions to dismiss or motions for judgment on the pleadings shall be filed within twenty (20) days, and responses to motions for summary judgment shall be filed within thirty (30) days of service. Reply briefs on dispositive motions shall be due within five (5) business days of service of a response. **Generally, a separate briefing order will not be issued.** Where a brief is required, it must be filed simultaneously with the motion.

Following a Post-Discovery Status Conference, the Court will issue an order setting forth, *inter alia*, the deadline for filing summary judgment motions.

**E. Evidentiary Hearings:**

Evidentiary hearings on pretrial matters generally are scheduled in advance of trial. When counsel concludes that an evidentiary hearing is appropriate, they should confer with opposing counsel and request a hearing by motion.

**F. Motions *In Limine*:**

Counsel shall comply in all respects with Local Rule 16.1.C.4 with regard to motions *in limine*. To the extent counsel deems it necessary to file such motions, the date for filing the motion and supporting brief will be set forth in the Final Pretrial Order. Generally, the Court will rule on these motions prior to trial.

**G. Proposed Orders:**

In accordance with local rules, each and every motion shall be accompanied by a proposed Order of Court. The Order of Court shall include language detailing the specific relief sought, and not simply that the motion “is granted.”

### **III. CIVIL CASES**

#### **A. Pretrial Procedures:**

##### **1. Initial Scheduling Order:**

The Court uses an Initial Scheduling Order based on Local Rule 16.1.B.

##### **2. Initial Scheduling Conference:**

Pursuant to Local Rule 16.1, after the filing of an Answer by the defendant, Judge Bissoon will issue an order setting the date of the initial scheduling conference.

Prior to the conference, the parties shall meet and confer and file a report pursuant to Fed. R. Civ. P. 26(f), the form of which is set forth in “Appendix LCvR 16.1A” to the Local Rules. Additionally, in **jury** cases, at least three (3) business days prior to the Initial Rule 16 Scheduling Conference, counsel for every party shall submit a position letter to this Court.<sup>1</sup> The position letter shall set forth the following: (a) A brief recitation of the facts; (b) A discussion of your party’s strengths and weaknesses; and (c) Your party’s settlement posture. To ensure candor, the position letters are not to be filed nor shared with opposing counsel, but rather, faxed directly to Judge Bissoon’s Chambers at (412) 208-7467. All position letters will be kept **confidential**.

##### **3. Post-Discovery Status Conference:**

A Post-Discovery Status Conference will be held no more than 30 days after the close of discovery in each case. Prior to that conference, the parties shall meet and confer regarding settlement of the case and, in **jury** cases, at least three (3) business days prior to the Post-Discovery Status Conference, counsel for every party shall submit a position letter to this Court.<sup>2</sup> The position letter shall set forth

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the following: (a) A brief recitation of the facts; (b) A discussion of your party's strengths and weaknesses; and (c) Your party's settlement posture. To ensure candor, the position letters are not to be filed nor shared with opposing counsel, but rather, faxed directly to Judge Bissoon's Chambers at (412) 208-7467. All position letters will be kept **confidential**.

**4. Final Pretrial/Settlement Conference:**

After the court has ruled on all dispositive motions, a final conference will be held to discuss settlement and any pretrial matters. The final pretrial conference shall be conducted in accordance with Local Rule 16.1.C. Prior to that conference, the parties shall meet and confer regarding settlement of the case and, in **jury** cases, at least three (3) business days prior to the Final Pretrial Conference, counsel for every party shall submit a position letter to this Court.<sup>3</sup> The position letter shall set forth the following: (a) A brief recitation of the facts; (b) A discussion of your party's strengths and weaknesses; and (c) Your party's settlement posture. To ensure candor, the position letters are not to be filed nor shared with opposing counsel, but rather, faxed directly to Judge Bissoon's Chambers at (412) 208-7467. All position letters will be kept **confidential**.

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**5. Settlement Authority and ADR:**

Judge Bissoon requires counsel and their clients, or persons with authority (including insurance companies), to be present at settlement conferences. For good cause shown or at the Court's direction, the client or person with settlement authority may be permitted to participate by telephone.

Cases filed after January 1, 2008, are required to participate in the Court's ADR program pursuant to Local Rule 16.2. Prior to the Initial Case Management Conference, counsel **must** submit a Stipulation to an ADR process consistent with Local Rule 16.2.D. Stipulation forms are available on the Court's website and **must** specify a proposed neutral. If the parties cannot agree on a proposed neutral, one will be selected by the Court.

**6. Extensions and Continuances:**

Requests for extensions of time and continuances shall be presented by written motion, contain supporting facts and indicating the position of opposing counsel. Reasonable extensions will generally be granted for good cause shown.

**B. Discovery Matters:**

**1. Length of Discovery Period:**

Counsel must comply with the provisions of Fed.R.Civ.P. 26 and must file the written report required by Rule 26(f) prior to the initial scheduling conference. Generally, for cases filed after January 1, 2008 that are subject to the Court's ADR program, the length of discovery shall be 150 days if the parties choose mediation or early neutral evaluation as their ADR process. If the parties choose arbitration, the length of discovery shall be 120 days.

**2. Expert Witnesses:**

Expert depositions may be deferred until after dispositive motions upon agreement of the parties and the Court.

**3. Discovery/Deposition Disputes:**

Counsel for the parties **must confer** on discovery disputes, prior to seeking the Court's intervention. If counsel for the parties cannot resolve the dispute, Judge Bissoon **requires** that the parties contact the Court to set up a conference in an effort to resolve the matter, rather than file a formal discovery motion. Absent good cause shown, a failure to follow the above procedures shall result in a denial of any discovery motion, without prejudice.

For discovery disputes that arise during a deposition, the attorneys together may contact the Court via telephone to resolve the matter.

**4. Stay of Discovery:**

The filing of a motion to dismiss or other dispositive motion generally will not stay discovery. A stay may be sought by motion but will be granted only if the right to relief is clear or some other compelling reason exists. Participation in an ADR process will not stay discovery.

**5. Limitations or Expansions on Discovery:**

The Court follows the Federal Rules of Civil Procedure on this matter and does not impose additional restrictions or limitations. To the extent that the parties seek to expand the limits set forth in the Federal Rules of Civil Procedure, this should be addressed in the parties' Rule 26(f) report. *See* "Appendix LCvR 16.1A" to the Local Rules.

**6. Rule 11 Motions - Rule 37 Sanctions:**

Counsel are expected to comply with the Federal and Local rules. The Court has no additional requirements and will rule promptly.

**C. Injunctions and TROs:**

Federal Rule of Civil Procedure 65 governs motions for preliminary injunctions and/or temporary restraining orders. Any ex parte contact with the Court should be avoided. For temporary restraining orders without notice, the moving party must meet the requirements of Federal Rule of Civil Procedure 65(b).

Following a review of the pleadings, the Court will determine whether to conduct a hearing, whether the injunction hearing should be consolidated with a trial on the merits, the scope of the necessary testimony and evidence to be presented and whether expedited discovery should be granted.

**D. Trial Procedures:**

**1. Scheduling of Cases:**

A date certain will be given for trial following the resolution of Rule 56 motions or, if none are filed, at the Post-Discovery Status Conference. Vacation schedules and personal/professional obligations that conflict with the trial date will be accommodated where possible. The Court must be notified of any conflict as soon as possible.

**2. Trial Hours/Days:**

Generally, cases will be tried Monday through Thursday from 9:45 a.m. to 4:15 p.m., with breaks as appropriate. Absent extraordinary circumstances, testimony will not be heard on Fridays, although closings, jury charges and jury



deliberations may take place on Fridays. Judge Bissoon will meet with counsel before and after these appointed times to discuss trial/evidentiary issues.

**3. Trial Briefs:**

Trial briefs are not required, but are encouraged when counsel believe that such briefs would assist the Court. Such briefs should not exceed fifteen (15) pages and should be filed at least one (1) week prior to trial.

**4. Voir Dire:**

Judge Bissoon's Deputy Clerk or Law Clerk will conduct the preliminary voir dire of potential jurors consistent with the Local Rules. Counsel may submit proposed voir dire for the Court's consideration at the time established in the Final Pretrial Order.

**5. Note-taking by Jurors:**

Judge Bissoon allows jurors to take notes, unless a valid objection is voiced.

**6. Side Bars:**

Reasonable side bars will be permitted when necessary.

**7. Examination of Witnesses Out of Sequence:**

Judge Bissoon will permit the examination of a witness out of sequence, either within the party's own case or within an opposing party's case, on a showing of good cause or by consent of all parties. In the event that a witness will be unavailable for trial, the witness's testimony may be presented by video deposition or deposition testimony may be read into the record.

**8. Opening and Closing Statements:**

There are no Court-imposed time limits on opening or closing statements, although the length of such statements should be reasonable. Defense counsel may defer opening statements.

**9. Examination of Witnesses or Argument by More than One Attorney:**

Only one attorney for each party may conduct an examination of any witness, argue any motion or point, or give the opening or closing statements.

**10. Examination of Witnesses Beyond Direct and Cross:**

Judge Bissoon will permit redirect and recross of a witness as necessary, but does not typically permit any further examination.

**11. Videotaped Testimony:**

Judge Bissoon does not have any special procedures or requirements with respect to the use or admission of videotaped testimony, but requires the parties to comply with the Local Rules governing video depositions, except that the recording is not to be filed with the Clerk. Counsel should inform the Court in advance of trial of the intention to use video testimony, so that the Judge and parties may discuss the procedures to be utilized.

**12. Reading of Material into the Record:**

Judge Bissoon has no policy or rules on this point and it will be considered on a case by case basis.

**13. Exhibits:**

All exhibits must be listed in the Pretrial Narrative Statements. Generally, plaintiff(s) shall use a "P" followed by an exhibit number and defendant(s) shall

use a “D” followed by an exhibit number. The parties are expected to comply with Local Rule 16.1.C.5.a by exchanging exhibits prior to the final pretrial conference and should be prepared to indicate a position at the final pretrial conference with regard to the authenticity and admissibility of the opponent's exhibits. All exhibits shall be marked before trial. While exhibits may be introduced out of sequence, this is not preferred.

Counsel shall obtain the Court's approval in advance for use of any demonstrative aid(s) during opening statements. Demonstrative aids are permitted during trial absent a sustained objection.

**14. Jury Instructions and Verdict Forms:**

The Court requires counsel to confer and submit a single set of agreed upon jury instructions and a proposed verdict form. The Court requires the use of the Model Jury Instructions for the Third Circuit, where applicable. To the extent that the parties cannot agree on a particular instruction or form, counsel for each party shall submit his/her version of the particular instruction and/or form, along with supporting authority for that instruction or form. If the party believes that a particular instruction should not be included at all, that party shall submit supporting authority for that position. The date for filing same will be set in the Final Pretrial Order. The Court will hold a charging conference at which time counsel will receive the final charge and verdict form to be given to the jury.

**15. Proposed Findings of Fact and Conclusions of Law:**

In non-jury trials, Judge Bissoon requires the submission of proposed findings of fact and conclusions of law. The parties shall file consecutively numbered proposed findings of fact and conclusions of law. The proposed findings of fact shall address each contested issue of fact and cite support by clear and explicit

reference to the record evidence relied upon. Each proposed conclusion of law shall be supported by citation to the appropriate authority. With the proposed findings of fact and conclusion of law, the parties also shall file and serve a brief in support of judgment that integrates the proposed findings of fact with the proposed conclusions of law to demonstrate why the relief requested should be granted. The supporting brief shall not exceed twenty (20) pages. The proposed findings of fact and conclusions of law, along with the supporting brief, shall be filed within twenty (20) days of the final day of trial. The Court also requires that the parties separately submit to the Court their respective proposed findings and conclusions in an editable word processing format.

**16. Offers of Proof:**

Offers of proof should not be required since the Court sets aside time before and after a trial day to discuss trial/evidentiary matters with counsel. Should the need arise during trial, however, the Court does not impose any restrictions.

**17. General Courtroom Decorum:**

Counsel shall conduct themselves with respect, courtesy and civility at all times. The Court will not tolerate demonstrations of hostility or of discrimination or bias of any kind.

**E. Jury Deliberations:**

**1. Written Jury Instructions:**

Judge Bissoon gives the jury a written copy of her jury instructions.

**2. Exhibits in the Jury Room:**

Judge Bissoon permits exhibits to be provided to the jury for their deliberations, so long as counsel agree upon the exhibits that are to be provided.

**3. Jury Requests to Read Back Testimony or Replay Tapes During Deliberations:**

Where appropriate, Judge Bissoon will permit the reading back of testimony to the jury.

**4. Jury Questions:**

If a question is submitted to the Court, the Judge will discuss the question with counsel prior to giving an answer to the jury.

**5. Availability of Counsel During Jury Deliberations:**

Counsel must be available in person or by telephone during jury deliberations.

**6. Interviewing the Jury:**

Judge Bissoon advises jurors that they do not have to respond to inquiries from counsel. She does instruct the jurors, however, that responses may be helpful to counsel.

**IV. CRIMINAL CASES**

**A. Motions:**

Requests for extensions of time to file pretrial motions will be granted for good cause and, in particular, in cases with a significant amount of discovery or in cases involving a wiretap or complex factual scenario. Appropriate language excluding such delay from the operation of the Speedy Trial Act must be included in any proposed order on such a motion.

**B. Status/Pretrial Conferences:**

Status conferences will be scheduled as necessary or upon the request of counsel. Additionally, following the Court's ruling on pretrial motions, the Court will

conduct a status conference at which counsel for Defendant/Defendants must advise the Court of their client's/clients' intention to elect a jury or non-jury trial or to plead guilty. A pretrial conference will be conducted in advance of trial.

**C. Pretrial Procedures:**

**1. Brady Material:**

Brady material should be exchanged as soon as practicable and well in advance of trial.

**2. Jencks Act:**

The government is encouraged to provide Jencks Act material as soon as practicable, but no later than the date on which jury selection begins.

**3. Motions in limine**

To the extent counsel deems it necessary to file such motions, the date for filing the motion and supporting brief will be set forth in the Final Pretrial Order. Generally, the Court will rule on these motions prior to trial.

**4. Transcripts of tape recorded conversations:**

Transcripts of tape recorded conversations generally will be permitted.

**5. Special Interrogatories:**

Special interrogatories to the jury will be permitted in appropriate cases, or if required for sentencing.

**D. Trial:**

With the exception of voir dire, exhibits and scheduling, Judge Bissoon's criminal trial procedures are the same as her civil trial procedures.

**1. Scheduling:**

Criminal cases take priority on Judge Bissoon's docket because of the Speedy

Trial Act. Following the Court's ruling on pretrial motions, the Court will conduct a status conference at which counsel for Defendant/Defendants must advise the Court of their client's/clients' intention to elect a jury or non-jury trial or to plead guilty. The Court will proceed immediately to schedule a trial or plea hearing on a date certain as soon as reasonably practicable.

**2. Voir Dire:**

Judge Bissoon will conduct voir dire of potential jurors in all criminal cases. Counsel may submit proposed voir dire for the Court's consideration at the time established in the Final Pretrial Order.

**3. Exhibits:**

Generally, the government shall use a "G" designation followed by an exhibit number and Defendant(s) shall use a "D" followed by an exhibit number.

**E. Guilty Pleas:**

Counsel are encouraged to engage in plea bargain negotiations as early as possible to avoid disrupting the Court's trial schedule. If a plea agreement is reached, counsel for the government must promptly provide a copy of the agreement to the Court so that a plea hearing may be scheduled. Counsel for the Defendant and the government will be called upon to summarize the plea agreement on the record at the plea hearing.

**F. Sentencing:**

Counsel may submit memoranda in aid of sentencing, but are not required to do so. If such memoranda are to be submitted, counsel are encouraged to provide the memoranda to the Court at least twenty-four (24) hours in advance of the sentencing hearing. Counsel must notify the Court at least two (2) weeks prior to

sentencing as to whether extensive testimony will be presented at the sentencing hearing.

**V. PATENT CASES**

Patent cases will be governed by the Court's Local Patent Rules.

**VI. BANKRUPTCY APPEALS TO THE DISTRICT COURT**

In accordance with Bankruptcy Rule 8009, briefs are to be filed within fifteen (15) days by Appellant. Appellee's brief is due fifteen (15) days thereafter.

Reply briefs are permitted in accordance with the Rule.